

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
WILMINGTON DIVISION**

**IN RE:**

**JOHN ADAM KOZAK**

**DEBTOR**

**CASE NO. 24-04051-5-PWM**

**CHAPTER 7**

**MOTION FOR RULE 2004 PRODUCTION OF DOCUMENTS**

Now comes Karen P. Ayers, Dwayne F. Ayers, Rhoback Properties, LLC, Christopher Gibson and Lyndsey Gibson, Lone Palm LLC (Chris Boukedes and Danielle Boukedes), Dennis and Erin Hicks, Gerald and Kathy Hill, Jeff and Debbie Vandeven, Marco and Christy Longo, 157W 3<sup>rd</sup> Street LLC (Rob Croft and Tatum Croft), Harwick NC Properties LLC (Brian Harwick), 109 Ocean Blvd West, LLC (Tiffany Paul McDowell), Frye Property LLC (Marc Chadwick Frye), 4 Waymaker Properties, LLC (Glenn L. Martin, III, Jennifer Martin, Eric King and Melissa King), Mason Gosse (Marshall Lane Design & Interior LLC), White Conch Properties, LLC (Sangita Dash and Bibhu Mishra), Tony and Kathy Goodson, Bruce and Kim Williams, Arrington and Courtney Driver, Justin Sciranko, Jessica and David Gordon, Alvin Willis, John Huebner and Nikki Huebner, Matthew McKinney and Kimberly McKinney, Just Properties LLC (Christopher and Beth Just), Sarah-Margaret Church and Justin Church, Robert and Mattie Walker, Lori and Barry Pry, Sonya and David Mason, Garry W. Vanderburg and Victoria H. Vanderburg, Steve M. and Brandi West, Joyce Hamilton, SIME LLC (Sima Tavakoli), Carl Rabinowitz, Sarah and Andre Ranadive, Benjamin Koberna and Kidwell NC LLC (Julie Kidwell) (collectively, the “Homeowners”), by and through its undersigned counsel, and respectfully moves this court pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rule 2004-1 for an order directing Stellar Beach Realty & Rentals, LLC (the “Stellar Beach Rentals”) to produce certain documents. In support of this Motion, Homeowners state as follows:

1. Homeowners are creditors in this bankruptcy case.
2. Homeowners are among dozens of Homeowners who contracted with Stellar Beach Rentals to manage the year-round rental of Homeowners' respective vacation homes located in Eastern North Carolina.
3. John Kozak, the Debtor, in this case is the President, Registered Agent, Member, and sole owner of Stellar Beach Rentals.
4. Prior to September 2024, Stellar Beach Rentals managed the rentals of the Homeowner's property, collected rents, held such rents in escrow (the "Trust Account"), and paid out net revenue from the rentals each month, less management fees, to the Homeowners from the Trust Account.
5. In September of 2024, Homeowners did not receive rental payments for the proceeding month and for the subsequent months leading up to the filing of this bankruptcy.
6. Upon information and belief, the Trust Account is empty despite Stellar Beach Rentals receiving hundreds of thousands of dollars in rents on behalf of the Homeowners through at least September 2024 and beyond.
7. The production of documents of the Stellar Beach Rentals is necessary for the Homeowners to investigate the disappearance of the rental payments collected by Stellar Beach Rentals and whether Debtor engaged in activity that violated the fiduciary duties owed to the Homeowners, and whether Debtor engaged in activity that amounts to fraud or embezzlement.
8. To date, the Homeowners have not received any explanation as to the whereabouts of the rental payments collected by Stellar Beach Rentals and the monies previously held in the Trust Account.

9. Therefore, the Homeowners request that the court enter an order directing the Debtor to produce the documents requested in **Exhibit A** no later than 2:00 p.m. on February 28, 2025 at the following address: Womble Bond Dickinson (US) LLP, Attn: James S. Livermon, III, 555 Fayetteville Street, Suite 1100, Raleigh, North Carolina 27601.

WHEREFORE, Homeowners pray the court to grant the following relief:

1. To require the Debtor to produce the requested documents no later than 2:00 p.m. on February 28, 2025 at the following address: Womble Bond Dickinson (US) LLP, Attn: James S. Livermon, III, 555 Fayetteville Street, Suite 1100, Raleigh, North Carolina 27601; and

2. To grant such other relief as the Court deems just and appropriate.

This the 14<sup>th</sup> day of February, 2025.

WOMBLE BOND DICKINSON (US) LLP

By: /s/ James S. Livermon, III  
JAMES S. LIVERMON, III  
NC State Bar No. 26492  
*Attorneys for Homeowners*  
555 Fayetteville Street, Suite 1100  
Raleigh, North Carolina 27601  
Telephone: 919.755.2148  
E-Mail: Charlie.Livermon@wbd-us.com

Exhibit A

- 1) All property management agreements to which Stellar Beach Rentals was a party during calendar years 2023 and 2024. This includes all property management agreements entered into or in effect during this time period.
- 2) All W-2's, pay stubs, pay checks, pay advices or other documents and information evidencing or representing wages and compensation paid by Stellar Beach Rentals to the Debtor and Debtor's spouse between January 1, 2023 and January 31, 2025.
- 3) Copies of bank statements, cancelled checks, debit memos, deposits and deposit tickets, organized in chronological order, for all bank accounts in the name of Stellar Beach Rentals, including but not limited to, Stellar Beach Rental's primary operating account and the account labeled as the trust account maintained at Truist Bank, for each and every month between January 1, 2023 through and including January 31, 2025.
- 4) Copies of the signature cards for each and every Stellar Beach Rentals bank account for the time period of January 1, 2023 through and including January 31, 2025.
- 5) Copies of all bank account check registers, ledgers and journals detailing all account activities maintained by Stellar Beach Rentals for the time period of January 1, 2023 through and including January 31, 2025.
- 6) Copies of all vacation rental agreements with renters for vacation stays at the Homeowners' properties for the time period of January 1, 2024 through November 1, 2025.
- 7) Copies of any and all records, ledgers, notes, memoranda, and reports detailing all security deposits or advance payments received by Stellar Beach Rentals from renters pursuant to vacation rental agreements for vacation stays at the Homeowners' properties scheduled to occur between September 1, 2023 and November 1, 2025.
- 8) Detailed information and documentation of all rents collected by Stellar Beach Rentals related to the Homeowners' properties, broken down and separated by each individual property managed, from January 1, 2023 through January 31, 2025, including all activity reports from Kigo and Streamline software systems.
- 9) Detailed information and documentation identifying and evidencing all distributions made by Stellar Beach Rentals between January 1, 2023 and January 31, 2025 to the Debtor or to an entity in which the Debtor had an interest at the time the distribution was made. Information and documentation to be provided pursuant to this request includes, but not limited to, the date of the distribution, the amount, the account name, number and owner from which the distribution was made, the account name, number and owner into which the distribution was received, and the purpose of the distribution.
- 10) Documentation identifying and evidencing all payments, disbursements, ACH transfers, wire transfers, withdrawals, debits or other transactions by or between Stellar Beach Rentals and the

Debtor, or a relative of the Debtor between January 1, 2023 through and including January 31, 2025.

- 11) Documentation identifying and evidencing all payments, disbursements, ACH transfers, wire transfers, withdrawals, debits or any other transfers or transactions between January 1, 2023 and January 31, 2025 by or between Stellar Beach Rentals and all or any one of the following parties:
  - i) Ally Financial
  - ii) Axos Bank/LaVictoire Finance
  - iii) CFG Merchant Solutions
  - iv) Custom Capital USA
  - v) ES Capital Group, LLC
  - vi) Global Merchant Cash Inc.
  - vii) Grasshopper Bank, N.A.
  - viii) Lamborghini Financial
  - ix) RDM Capital Funding
  - x) Seminole Hard Rock Hotel & Casino
  - xi) Terrapin Business Funding, LLC
  - xii) Truist Bank
  - xiii) Unique Funding Solutions, LLC
- 12) Stellar Beach Rentals' 2022 and 2023 federal tax return, including all schedules. If Stellar Beach Rentals did not file its own return, then produce a copy of the Debtor's tax return and all schedules for 2022 and 2023.
- 13) Copy of Stellar Beach Rentals' balance sheet, profit and loss statement, cash flow statement for fiscal year 2023 and 2024. If Stellar Beach Rentals' fiscal year end is not December 31<sup>st</sup>, then additionally produce the 2025 fiscal year-to-date financial statements.
- 14) Copy of any and all applications submitted by Stellar Beach Rentals to obtain Economic Injury Disaster Loan submitted to the Small Business Administration.
- 15) Documentation identifying and evidencing all correspondence and communications between any employee, officer, director or owner of Stellar Beach and any potential investors or purchasers of Stellar Beach Rentals that occurred between September 1, 2024 and December 31, 2024. Include in such production any and all proposals may to or made by Stellar Beach Rentals during this time period.
- 16) Documentation identifying and evidencing all correspondence and communications with VRBO and all payments from or on account of rental agreements through VRBO between September 1, 2023 through December 1, 2024.

**CERTIFICATE OF SERVICE**

I, the undersigned, of Womble Bond Dickinson (US) LLP, hereby certify:

That I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age;

That on this day, I served a copy of the foregoing Motion for Rule 2004 Production of Documents on:

John Adam Kozak  
308 Arborhill Lane  
Holly Springs, NC 27540

Stellar Beach Realty & Rentals LLC  
c/o John A. Kozak, President  
308 Arborhill Lane  
Holly Springs, NC 27540

by depositing the same in the United States mail, first class, postage prepaid.

That on this day, the foregoing Motion for Rule 2004 Production of Documents was served by electronic means through the court's CM/ECF service on:

Phillip Sasser, Esq.  
Attorney for the Debtor

George F. Sanderson, Esq.  
Chapter 7 Trustee

Brian C. Behr, Esq.  
Bankruptcy Administrator

I certify under penalty of perjury that the foregoing is true and correct.

This the 14<sup>th</sup> day of February, 2025.

WOMBLE BOND DICKINSON (US) LLP

By: /s/ James S. Livermon, III  
JAMES S. LIVERMON, III